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July 25, 2008

The Honorable Victor Marrero
United States District Judge
Southern District of New York
United States Courthouse, Suite 660
500 Pearl Street
New York, New York 10007

Re: Marichu Suarez Baoanan v. Lauro Liboon Baja, et al.
Docket No.: 08-CV-5692 (VM)

Dear Honorable Judge Marrero:

In behalf of defendants we object to the demand of plaintiff's counsel for a certification of the diplomatic status of defendants Lauro Baja, Norma Castro Baja and Maria Elizabeth Baja Facundo on three (3) grounds.

First, as stated in our motion to dismiss, we requested the court to take judicial notice of the status of defendant Lauro Baja, Jr. as former Philippine Ambassador to the United Nations. The complaint acknowledges defendant Norma Castro Baja the wife of defendant Lauro Baja (par. 11, page 3, Complaint). Plaintiff also acknowledges in her complaint that defendant Maria Elizabeth Baja Facundo is the "adult daughter of Lauro Baja, jr. and Norma Baja and at all relevant times she resided at 15 East 66th Street, New York, NY 10065" (par. 12, page 3, complaint). 15 East 66th Street, New York, New York is the permanent residence of the Philippines' Permanent Representative to the United Nations. (See attached letter of the Philippine Mission to the UN).

Second, plaintiff and her lawyers are also estopped from claiming lack of knowledge of the diplomatic status of defendant Lauro Baja, Jr. because in their press conference held on July 9, 2008 at the office of plaintiff's counsel Ivy O. Suriyopas, it was Ms. Suriyopas herself who disclosed that defendant is the former Philippine Ambassador to the UN, as fact that she capitalized on to gain mileage to the cause of AALDEF. We attach various newspaper clippings of this press conference for which we claimed in our motion as breach of professional ethics in filing a lawsuit for purposes other than fair advocacy.

Third, under Rule 11 it is plaintiff counsel's duty as an attorney or unrepresented party to certify that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances. It is the duty of Ms. Suriyopas to ascertain that the factual contentions of her complaint have evidentiary support or, if, specifically so identified will likely have evidentiary support after a reasonable investigation or discovery. We submit to this court that this request is a mere ploy of counsel to feign ignorance of the diplomatic status of defendant Lauro Baja, Jr. to escape the consequences of our announced motion for Rule 11 sanctions. It has been the goal of AALDEF to bring down diplomats who employ domestic help in the US. For instance, AALDEF was counsel in the case of *Ahmed v. Hoque* and in *Sabbithi v. Major Ahmeed*. It has been the standard practice of AALDEF to hold press conferences of diplomats sued and post them in the internet. In fact, in the You Tube presentation of plaintiff in the Internet she expressly admitted that she worked for the Philippine Ambassador to the UN. How could now counsel in all sincerity deny that she did not know the diplomatic status of defendant Lauro Baja, Jr and his wife and daughter when such facts stare at its face. Any diligent lawyer would have studied the legal implications of such diplomatic status before rushing head long to file this complaint and before holding a press conference for the purpose of announcing to the world that she has charged a diplomat for alleged crimes of trafficking, slavery, peonage, etc., knowing that by such press conference the malicious imputation would cause irreparable damage to defendants' reputation before they could have the opportunity that law affords them to defend themselves. This is trial by publicity which goes against the grain of fair advocacy and legal ethics.

Be that as it may, we have requested for such certification from the US Mission to the United Nations and as of July 21, 2008, I received a call from a Mr. Donovan of the US Mission that our request is in process but I have not been told when it will come. Attached is a copy of our request.

I respectfully submit to this court that such certification is not absolutely necessary for plaintiff's counsel to be able to prepare her opposition to this motion as she has known before hand that she was suing a former ambassador to the United Nations unless she denies this under her oath as a lawyer, a fact admitted by plaintiff herself in the conference of July 9, 2008, a fact known to Ms. Ivy O. Suriyopas herself even before she filed this complaint or she should have by her duty under Rule 11 (b)(3).

For the foregoing reasons, defendants object to the request for certification as a frivolous request under Rule 11.

Defendants' counsel requests for a conference on this matter.

Respectfully submitted,


SALVADOR E. TUY, ESQ.

SET/ado
Enclosures

cc: Ivy O. Suriyopas, Esq., Attorney for Plaintiff, AALDEF (via facsimile)
Aaron Mendehlson, Co-Counsel for Plaintiff, Troutman Sanders LLP (via facsimile)

MISYON NG PILIPINAS SA MGA
NAGKAKAISANG BANSA



PHILIPPINE MISSION TO THE
UNITED NATIONS

556 FIFTH AVENUE
NEW YORK, N.Y. 10036
TEL. NO. (212) 764-1380

21 July 2008

Atty. Salvador E. Tuy, Jr.
Law Offices
PRADO & TUY, LLP
11 Hannover Square, Third Floor
New York, N.Y. 10005
Fax: (212) 668-8494

Sir:

This refers to your communication (copy of your letter dated 18 July addressed to the Legal Officer of the United States Mission to the United Nations) contained in an unsealed brown envelope addressed to the Philippine Mission at this address: 15 East 66th Street, New York New York 10065, which was personally delivered to said address last Friday.

Please be informed that the correct address of the Philippine Mission is

556 Fifth Avenue
New York, N.Y. 10036

The address 15 E 66th Street is the permanent residence of the Philippines' Permanent Representative to the UN.

Truly yours,


GAMALIEL FERNANDO
Acting Administrative Officer

16/09/2003



Press Release BIO/3528* GA/L/3228

Biographical Note

LAURO LIBOON BAJA (PHILIPPINES) CHAIRMAN OF SIXTH (LEGAL) COMMITTEE

Lauro Liboon Baja Jr. (Philippines) was elected Chairman of the Sixth Committee (Legal) by the General Assembly on 6 June.

Mr. Baja is the Permanent Representative of his Mission to the United Nations. Prior to assuming his post in May, he served as the Senior Undersecretary of Foreign Affairs for his country from 1998. Other posts he has held in his country's Foreign Affairs Department include Assistant Secretary for Asian and Pacific Affairs (1993-1997); Chief Coordinator and Special Assistant to the Secretary (1980-1985); Chief of the Treaties Division (1965-1966); and Legal Officer from 1962 to 1964.

In the international arena, Mr. Baja has served as his country's Ambassador to Italy (1997-1998) and to Brazil (1986-1993). From 1977 to 1979, he was Executive Director of the Office of United Nations and Other International Organizations. He served at his country's Mission to the United Nations in New York from 1973 to 1977 and at the Philippine Embassy in London from 1967 to 1972.

Mr. Baja's legal expertise includes the drafting and negotiation of statements on regional cooperation. His work for the Association of South-East Asian Nations (ASEAN) included the ASEAN Joint Declaration Against Terrorism for the 2000 ASEAN Summit. He has represented his country at diplomatic conferences, including the Rome conference establishing the International Criminal Court; has participated in United Nations meetings, such as the Commission on International Trade Law; and has served in senior official capacities in ASEAN forums and meetings of the Non-aligned Movement. His work has been recognized through awards from his country, Italy and Brazil.

Mr. Baja received a Bachelor of Laws Degree and a Bachelor of Science in Jurisprudence from the University of the Philippines. He completed a Foreign Service Course at Oxford University.

He is married to Norma Castro Baja, and has a daughter and son.

* * * * *

* This supercedes Press Release BIO/3493 issued 21 May 2003.

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DOMESTIC SUES EX-AMBASSADOR

For the past 21 years, The Filipino Express has provided the Filipino American community the best news, arts and entertainment coverage from around the United States and the Philippines.

This website includes selected articles from this week's edition of the Filipino Express. Not all the stories published in the printed version appear on this site.



"I THOUGHT OF SUICIDE." A tearful Marichu Suarez Baoanan recounts her ordeal while still serving the household of former RP ambassador to the UN Lauro Baja, Jr (inset). Bao with the help of DAMAYAN and her lawyers held a press conference last July 9 in Manhattan (Photo by Jacqueline Ng Fernandez)

Former ambassador Lauro Baja, Jr. charged with human trafficking, peonage and slavery

By: Jacqueline Ng Fernandez and Joseph Lariosa

NEW YORK - Marichu Suarez Baoanan, a Filipina domestic

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worker has filed a civil lawsuit against Lauro Baja, Jr., a former United Nations Ambassador to the Philippines and his family on 15 counts that include trafficking, forced labor, peonage, and slavery.

Baoanan, accompanied by her lawyers, held a press conference last Wednesday in downtown Manhattan to explain the psychological, emotional, and physical abuse inflicted onto her by the Baja family.

"I served the Bajas for three months, cooked, took care of their child, cleaned their really big house, did the laundry, ironed, and read, and other tasks as a domestic worker," said 39-year-old Baoanan, who is originally from Manila.

"In return they paid me with curses, insults, disrespect, and \$100."

Baoanan worked alone as the sole maid in Ambassador Baja's four-story Upper East Side townhouse where she said she worked 18 hours a day, seven days a week, for three months.

"My body was so exhausted from working for them I couldn't even sleep, I hadn't even recovered from the previous day's exhaustion, and already someone was already waking me up," she said.

"I wholeheartedly thought that if I go to America I would make a lot of money and eat good food and that I would be able to send my children to a good school," a tearful Baoanan added. "I was wrong. My life was miserable. They really abused me."

She told the press about the physical abuse she experienced in the hands of Ambassador Baja's then five-year-old grandson: "One time the ambassador saw that the child hit me on the back with a broom and he did not even stop the child from doing so."

Baoanan also spoke about the treatment she received from Norma Baja, Ambassador Baja's wife, when she arrived in America in January 2006: "When I went [out] with her it was the middle of January and it was really cold. I didn't have a jacket or anything of the like. I asked for a pair of shoes and she [Baja] ignored me, she wouldn't even give me a pair of shoes."

Baoanan confessed that she "thought of committing suicide because [she] was so depressed." However, after three months, she escaped from the Baja household with the help of someone whom she refers to only as a "good Samaritan."

This person introduced her to DAMAYAN, a Migrant Workers Association, where she learned about her rights.

DAMAYAN then contacted the Asian American Legal Defense Education Fund (AALDEF) who contacted law enforcement. A criminal investigation was then filed against the Baja family and the Baja owned, Labaire International Travel Agency.

"The criminal case has been closed, so now we are seeking civil justice for Marichu," said Ivy Suriyopas, Baoanan's lawyer and staff attorney for AALDEF.

Baoanan is seeking compensation for unpaid wages that are due to her and a public apology.

"During the course of the criminal investigation, she [Baoanan] was granted continued presence, which is a form of temporary immigration status that only law enforcement can apply for. And while she had continued presence, she was eligible for a work permit, and supported her T Visa [Trafficking Visa] application."

Suriyopas further explained that Baoanan was able to receive a T Visa under the Trafficking Victims Protection Act, which allows a trafficking survivor "to stay in the United States for a period of time and eventually they are eligible to apply for a green card."

She added that Baoanan was also able to apply for derivative T Visas that ultimately reunited her with her family. Baoanan has three children and a husband who all currently reside in the United States.

Meanwhile, Salvador E. Tuy, Attorney for the Bajas and Labaire International Travel Agency attended the press conference and in an interview said: "It is unfortunate that an illegal immigrant would use this ploy: file a discrimination case, a slavery case, against a person just so he or she could get a T visa."

In response to Baoanan's statements that she only received \$100 for three months work, Tuy said: "The agreed amount in the contract was \$1000 a month and that there was an arrangement between the husband of Marichu and the Baja family that said she will get \$100 here and the rest of the money should be paid to her husband."

Tuy also brought pictures of Baoanan dressed in a winter coat and beanie standing in the snow smiling with Ambassador Baja's five-year old grandson. Baoanan had earlier said that Norma Baja ignored her requests for winter clothing and Tuy argues that these pictures prove that her statements are false.

Tuy also said that overseas Filipino workers who decide to go abroad for work are mandated under Philippine law to send part of their earnings back to their family in the Philippines. He added that there was nothing

unusual about the arrangement between the Baoanan and Baja family.

Tuy added that the whole thing is a demolition job: "The RICO claims have no leg to stand on under current jurisprudence because there is no racketeering and no pattern of abuse. This is a demolition job against Mr. Baja."

Mr. Tuy also said that former Ambassador Baja has already issued a statement in Manila denying these charges. According to 25-page summons and complaint filed against them by Marichu Suarez Baoanan, Ms. Baoanan worked in the household of the Bajas as a "domestic worker for approximately three months."

The Labaire International Travel, Inc., owned by the Bajas, "facilitated the visa application process, collected fees, provided temporary housing, and organized the travel of Ms. Baoanan to work at least 18 hours a day, seven days a week with no days off for three months for merely \$100."

Baoanan's story

It was sometime in 2005 when an acquaintance of Ms. Baoanan in the Philippines, Juanita "Babes" Maglalang, told her that Norma Baja would be able to help her come to the U.S. "to work as a nurse in exchange of 500,000 pesos (about US\$10,000)" to pay for her plane fare to the US, a visa, work authorization and assistance with finding employment as a nurse.

When Ms. Baoanan could not come up with 500,000 pesos, Norma Baja told her 250,000 pesos (US\$5,000) would be sufficient, which she paid in three installments. After taking her passport, Norma Baja let Ms. Baoanan signed a "contract" that she was not allowed to read before signing.

Norma Baja and another woman, Dorie, accompanied Ms. Baoanan to the Philippine Department of Foreign Affairs and applied for a new diplomatic (red) passport as Baja's domestic worker to expedite the passport application process. Ms. Baoanan said she thought it was Dorie, who was supposed to be Baja's domestic worker.

When she arrived in the U.S. on Jan. 13, 2006, Ms. Baoanan was told "she had to work for Defendants Bajas for six months to pay off the remaining 250,000 pesos" and her passport confiscated. Ms. Baoanan was paid \$100 for the child care of Miguel.

Her meals were "leftovers." Sometimes Defendant Elizabeth Facundo would watch Ms. Baoanan eat, "humiliating" and "preventing her from eating further."

Norma Baja forced Ms. Baoanan to "go to grocery shopping with her during the winter wearing only summer clothes, sandals and no jacket."

Ms. Baoanan slept "in the basement with only a sheet that" she brought with her from the Philippines.

She could not leave the Baja household unaccompanied and was restricted from using house telephone.

Defendant Lauro Baja refused to discipline Miguel when Miguel hit Ms. Baoanan with a broom, spat in her face and kicked her in the face in front of Defendant Lauro Baja.

She was never paid the state minimum, which \$6.75 per hour. Nor was she ever been paid state overtime for her work over 40 hours per week.

Ms. Baoanan said prior to her arrival, the Bajas had another domestic worker named Bernadette Tongson, who worked with the Bajas for at least one month. Prior to Tongson, there was another domestic worker who also worked in the Bajas household.

The migrant worker

Ana Liza Caballes, organizer and overall coordinator for DAMAYAN said: "This year alone migrant Filipino workers will send an estimated \$16 billion in remittances [to the Philippines] according to formal channels."

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JOEMAR N. MIANE

July 25, 2008

The Legal Officer
United States Mission to the United Nations
140 East 45th Street
New York, NY 10017

RE: Baoanan, Marichu Suarez v. Lauro Baja, Norma Castro Baja and Maria Elizabeth Baja
Facundo and International Travel, Inc.
US District Court, Southern District of New York docket No. 08 CV 05692 VM

Dear Sir:

We are the attorneys for the defendants in the above captioned case, copy enclosed.

In brief this is a suit by plaintiff alleging that she worked for Lauro Liboon Baja Jr., former permanent Philippine Ambassador to the UN from May 21, 2003 to 2006. She accuses former Ambassador Baja of Forced labor, Trafficking with respect to Peonage, Slavery, Involuntary Servitude and other offenses as stated in the attached complaint.

Although my clients strongly deny these charges as merely a ploy to gain a T visa after plaintiff abandoned her work at the Philippine Mission, the ensuing media onslaught resulting in character defamation of my clients force them to seek diplomatic immunity. The dates the acts were allegedly committed from January 13, 2006 to April 13, 2006 happened while Ambassador Baja was still Philippine ambassador of the Philippine Mission to the UN. He presented his credentials on May 21, 2003 and served until sometime in 2006.

We are therefore seeking a statement or certification of his credentials and level of immunity to be addressed to the Court, Judge Victor Marrero as basis for our accompanying motion to dismiss on the ground of diplomatic immunity.

If you have any questions on the above, please call me at the above telephone number or my cell phone (917) 913 7170.

Your prompt reply will be appreciated.

Very truly yours,

SALVADOR E. TUY, JR.

CERTIFICATE OF SERVICE

I, Anna L. Olona, hereby certify that on July 25, 2008, I caused to be served via facsimile a letter to Honorable Judge Victor Marrero on the following:

The Honorable Victor Marrero
United States District Judge
Southern District of New York
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